S.B.CIVIL MISC. APPEAL NO.1637/2007
(Ramlal & ors. Vs. The New India Assurance Co.Ltd. & ors.)

DATED : 3rd August 2007

**HON'BLE MR.JUSTICE DINESH MAHESHWARI**

Mr.B.N.Kalla for the appellant

The Motor Accidents Claims Tribunal, Chittorgarh in its impugned award dated 24.04.2007 has awarded compensation to the claimants, wife, parents, and brothers of the vehicular accident victim Laxman Lal, about 20-25 years of age, in the sum of Rs.3,75,000/- while assessing pecuniary loss at Rs.3,26,400/- after taking monthly income of the victim at Rs.2,400/- and loss of contribution for the claimants at Rs.1,600/-i.e., Rs.19,200/-per annum, and applying a multiplier of 17. The Tribunal has allowed Rs.20,000/- to the wife of the deceased towards non-pecuniary loss, Rs.10,000/- each to the mother and father of the deceased towards loss of services of their son, and Rs.4,600/- towards funeral expenses. In relation to the brothers of the deceased, the Tribunal has allowed an amount of Rs.1,000/- each, only towards loss of love and affection. The Tribunal has further allowed interest at the rate of 9% per annum from the date of filing of claim application.

The Tribunal has apportioned the award amount in the

manner that Rs.2,71,000/- have been allowed to the wife of the deceased, Rs.50,000/- to the mother and Rs.50,000/- to the father of the deceased, and Rs.1,000/- each to the four brothers of the deceased. The amount so awarded and apportionment so made by the Tribunal are sought to be questioned in this appeal by the parents and brothers of the victim.

It has been contended that the Tribunal has awarded inadequate amount towards the loss of claimants and has erred in allowing only an amount of Rs.50,000/- each to mother and father of the victim while allowing major part of the compensation amount to the wife of the deceased and, therefore, the award deserves interference. The submissions are not well founded and do not merit acceptance.

So far the assessment of pecuniary loss is concerned, for want of any other evidence on record, the Tribunal has put an estimate on the monthly income of the victim at Rs.2,400/- and in the context of the facts of the present case, has made rather higher side assessment by application of multiplier of 17 after deducting one-third on the personal expenditure of the deceased. The Tribunal has further allowed rather excessive amount towards general damages. Yet further, the Tribunal has awarded interest @ 9% per annum, and such rate of interest in the award made in the month of April 2007 could

only be said to be too excessive. There is no scope for enhancement.

The apportionment of award amount as made by the Tribunal in allowing Rs.1,00,000/- to the parents of the deceased and then Rs.1,000/- each to the four brothers of the deceased cannot be said to be unjustified or unreasonable. The parents of the deceased have four sons other than the victim who are the claimant-appellants. In the context of family set up, dependency of the parents on the victim could only be taken much lesser than one-fourth of the total loss as assessed by the Tribunal. The brothers of the deceased, in 35, 32, 29 and 20 years of age, were obviously not dependent on the deceased at all. In this view of the matter, when the present appellants have been allowed more than one-fourth of the award amount, the apportionment so made by the Tribunal does not call for any interference so as to allow any further amount to the appellants by reducing the share of the wife of the deceased.

The appeal fails and is, therefore, dismissed summarily.

**(DINESH MAHESHWARI),J.**

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